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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 MARK LESLIE, KENNETH E. LONCHAR,
18 PAUL A. SALLABERRY, MICHAEL M.
19 CULLY AND DOUGLAS S. NEWTON,

20 Defendants.

Case No. 5:07-cv-03444-JF

**AMENDED STIPULATION AND JOINT
REQUEST FOR [PROPOSED] ORDER
REVISING SCHEDULE FOR
DISPOSITIVE AND RELATED
MOTIONS**

21 **I. STIPULATION AND JOINT REQUEST FOR [PROPOSED] ORDER REVISING
22 SCHEDULE FOR DISPOSITIVE AND RELATED MOTIONS.**

23 WHEREAS, under Civil L. R. 6-2(a), Plaintiff Securities and Exchange Commission
24 ("SEC"), and Defendants Mark Leslie, Kenneth E. Lonchar and Paul A. Sallaberry (collectively,
25 "Defendants"), through their respective attorneys of record, hereby stipulate as follows:

26 WHEREAS, Plaintiff SEC filed its Complaint in this action on July 2, 2007;

27 WHEREAS, on March 21, 2008, the United States District Court for the Northern District
28 of California, San Jose Division, Judge Jeremy Fogel presiding, entered an order setting a Jury

1 Trial for December 4, 2009, the pretrial conference for November 20, 2009 and the cut-off for
2 filing dispositive motions for May 14, 2009 and otherwise adopting the parties' proposed case
3 schedule;

4 WHEREAS, on June 25, 2009, this Court entered an order pursuant to stipulation of the
5 parties modifying certain of the pretrial dates and setting a new trial date for May 14, 2010;

6 WHEREAS, on November 30, 2009, the United States District Court for the Northern
7 District of California, San Jose Division, Magistrate Judge Patricia Trumbull presiding, entered
8 an order setting the schedule for the filing of dispositive motions as follows:

- 9 (a) The Parties shall file dispositive motions by December 18, 2009;
- 10 (b) The Parties shall file oppositions to dispositive motions no later than
11 January 22, 2010;
- 12 (c) The Parties shall file reply briefs to oppositions no later than
13 February 5, 2010;
- 14 (d) The hearing on dispositive motions shall be held on March 5, 2010 at
15 9:00 AM; and
- 16 (e) The trial date of May 14, 2010 remains intact.

17 WHEREAS, on December 18, 2009, the Defendants collectively filed three motions for
18 summary judgment, three motions in limine, and one motion for severance. Those seven motions
19 (collectively, the "Motions") are presently scheduled to be heard on March 5, 2010 during the
20 Court's regular law and motion calendar.

21 WHEREAS, Defendant Mark Leslie's co-lead trial counsel, Douglas R. Young and
22 William P. Keane, have scheduling conflicts on March 5, 2010. Mr. Leslie raised this scheduling
23 conflict in its November 20, 2009 Joinder in Defendant Lonchar's Motion to Revise the Court's
24 Scheduling Order and Finalize Discovery.

25 WHEREAS, in light of the volume and breadth of the issues covered in the Motions, the
26 SEC has requested and Defendants have agreed to an extended briefing schedule to accommodate
27 scheduling issues of counsel for the SEC.

28

1 WHEREAS, the parties, recognizing the volume and complexity of the Motions, have also
2 agreed to ask the Court to specially set the hearing on the Motions to occur during the week of
3 March 8, 2010.

4 THEREFORE, for the convenience of all parties, the parties hereby STIPULATE, AND
5 JOINTLY REQUEST THE COURT TO APPROVE:

- 6 (1) The SEC shall file oppositions to the Motions no later than
7 February 1, 2010;
8 (2) The Defendants shall file reply briefs to oppositions no later than
9 February 16, 2010;
10 (3) The hearing on the Motions shall be specially set by the court to occur during the
11 week of March 8, 2010.

12
13 Dated: January 14, 2010

Respectfully submitted,

14 FARELLA BRAUN + MARTEL LLP

15
16 By: /s/ Anthony P. Schoenberg
Anthony P. Schoenberg

17 Attorneys for Defendant Mark Leslie

18
19 Dated: January 14, 2010

U.S. SECURITIES AND EXCHANGE
COMMISSION

20
21 By: /s/ Richard Hong
Richard Hong

22 Attorneys for Plaintiff Securities and Exchange
23 Commission

24
25 Dated: January 14, 2010

SHARTSIS FRIESE LLP

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27 By: /s/ Gregg S. Farano
Gregg S. Farano

28 Attorneys for Defendant Paul A. Sallaberry

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Dated: January 14, 2010

ORRICK HERRINGTON & SUTCLIFFE LLP

By: /s/ Danielle P. Van Wert
Danielle P. Van Wert

Attorneys for Defendant Kenneth E. Lonchar

PROPOSED ORDER

Pursuant to stipulation, and good cause appearing therefore, IT IS HEREBY ORDERED
THAT:

- (1) The SEC shall file oppositions to the Motions no later than
February 1, 2010;
- (2) The Defendants shall file reply briefs to oppositions no later than
February 16, 2010;
- (3) The hearing on the Motions shall be held on **March 5, 2010** at **9:00 a.m.**

IT IS SO ORDERED.

DATED: 1/5/2010



JUDGE OF THE DISTRICT COURT